

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:10-CV-510-H(2)

CARLTON WASHINGTON TOMLINSON,)
)
Plaintiff,)
)
v.)
)
BANK OF AMERICA,)
)
Defendant.)

ORDER

This matter is before the court on plaintiff's application to proceed in forma pauperis and for frivolity review pursuant to 28 U.S.C. §1915(e)(2). The court finds that plaintiff has demonstrated sufficient evidence of inability to pay the required court costs and therefore GRANTS his application to proceed in forma pauperis. However, the court concludes that plaintiff's complaint seeks review of judgments entered in state-court foreclosure proceedings and fails to raise any claim independent of those proceedings. As such, plaintiff's action is barred by the Rooker-Feldman doctrine. See Exxon Mobil Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005) (holding that Rooker-Feldman doctrine bars federal jurisdiction where a party to a state-court action files suit in federal court

complaining of an injury caused by the state-court judgment and seeking review and rejection of that judgment); Hagerty v. Succession of Clement, 749 F.2d 217, 220 (5th Cir. 1984) (invoking the "well settled rule that a plaintiff may not seek a reversal of a state court judgment simply by casting his complaint in the form of a civil rights action").

Accordingly, plaintiff's complaint is DISMISSED for lack of subject matter jurisdiction. Plaintiff's motion for a temporary restraining order is DENIED as moot. The clerk is directed to close this case.

This 9TH day of February 2011.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
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